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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,098	05/15/2001	Anthony Mazzurco	135816	2551

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ALCATEL USA
INTELLECTUAL PROPERTY DEPARTMENT
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PLANO, TX 75075

EXAMINER

NGO, HUNG NHAT

ART UNIT PAPER NUMBER

2633

DATE MAILED: 02/19/2004

Handwritten number 3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,098

Applicant(s)

MAZZURCO ET AL.

Examiner

Hung N Ngo

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruhl et al (US 2003/0156317). Ruhl et al discloses communications network comprising: a pair of network elements (4); two or more working spans (8) coupled between the pair of network elements for carrying communications traffic between the pair of network elements, each working span carrying the communications traffic over a plurality of channels associated with one or more rings (fig. 1); a shared protection span (span between network elements 4) coupled between the network elements. The network elements include circuitry for concurrently switching communication traffic on rings associated with different working spans to respective channels of said shared protection span. (Fig. 4). The pair of network elements each includes a non-blocking optical matrix. (Fig. 4). The pair of network elements is coupled to two or more incoming working spans and two or more corresponding incoming protection spans. (Fig. 4). The pair of network elements includes control circuitry for switching a channel from each of said incoming protection spans to an available channel of said shared protection span. (Fig. 4). The control circuitry further is operable to switch a channel from each of the incoming working spans to the shared protection span. (Fig. 4). The pair of network elements includes control circuitry for switching a channel from the shared protection span to a channel on an outgoing protection span. (Fig. 4).

It is well known in the art to provide protection channels (wavelengths) in excess the number of channels (wavelengths) of a working span so that in the event failure occurred in working spans, there will be enough protection channels (wavelengths) to replace the working channels (wavelengths). Therefore, it would have been obvious to provide protection channels in the shared protection span of Ruhl et al in excess the number of channels (wavelengths) of a working span so that in the event failure occurred in working spans, there will be enough protection channels (wavelengths) to replace the working channels (wavelengths).

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sharma et al discloses a shared span (80) between two network elements (82a,82b) (Fig. 4). Fishman discloses a shared span (3) between two network elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung N Ngo whose telephone number is (703) 308-0297. The examiner can normally be reached on M-F (8:30-5:00).

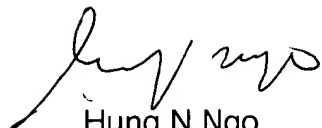
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 703-305-4729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

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A handwritten signature in black ink, appearing to read 'Hung N Ngo', is positioned above the printed name.

Hung N Ngo
Primary Examiner
Art Unit 2633

hn